IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

Crl.Rev.Pet.No. 345 of 2000()

CRA.149/1996 of V ADDL.SESSIONS COURT, ERNAKULAM
CC.381/1991 of JUDL.MAGISTRATE OF FIRST CLASS, KOLENCHERRY
.....

REVN. PETITIONER: 1ST APPELLANT/ 1ST ACCUSED

REJI , SON OF NARAYANAN,
VARAPPILLI VEEDU, AIRAPPURAM KARA,
AIRAPPURAM VILLAGE.

BY ADV. SRI.T.K.VENUGOPALAN
SRI.V.DEVAN

RESPONDENT: RESPONDENT/ COMPLAINANT

KERALA STATE, REP.BY THE SUB
INSPECTOR OF POLICE, KUNNATHUNAD.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.345/2000

ORDER ON CRL.MP. 2030/2000 IN CRL.RP. NO.345/2000

DISMISSED

09.08.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

tss

K.R. UDAYABHANU, J.

CRL.R.P.NO. 345 OF 2000

DATED THIS THE 9th AUGUST 2007

ORDER

The revision petitioner stands convicted for the offence under Sections 323, 326 read with Section 34 I.P.C. and sentenced to undergo rigorous imprisonment for one year for the offence under Section 326 I.P.C. He is also sentenced to pay a fine of Rs.1000/- for the offence under Section 323 I.P.C. and in default to undergo simple imprisonment for one month. The 2nd accused is convicted and sentenced to pay a fine of Rs.1000/- for the offence under Section 323 I.P.C. and in default to undergo simple imprisonment for one month. The 2nd accused has not preferred any revision . The prosecution case is that accused in furtherance of the common intention attacked PW1 on 4—2-1991 at about 8.30 p.m. in the public road at Kuttipilli Kara. 1st accused inflicted a blow over the nose with a granite stone that resulted in fracture to the nasal bone.

2. The evidence adduced in the matter consisted of the testimony of Pws.1 to 8 and Exts.P1 to P7 and Mo 1 stone. Defence examined DWs.1 to 3 and got marked Exts.D1 to D3.

3. Pws.1 and 2, the victim and the occurrence witnesses have respectively testified with respect to the incident. Pws.3 and 4, the Doctors have proved Ext.P3 wound certificate and Ext.P4 discharge certificate. The discharge certificate has confirmed fracture. The injuries noted are small lacerated injury over the root of nose with a suspected nasal bone fracture, incised injury of 5 x .25 cms. over right side anterior part of tongue and lacerated injury over lower lip. Of the witnesses examined, Pw2 did not fully support the prosecution case. He has stated that he has seen Pw1 being pulled down by 2nd accused and that the 1st accused inflicted the injury over the nose of PW1 with a granite stone. He was treated as hostile only because he did not say that PW1 was beaten up by the accused with hands. I find that the evidence was dealt with exhaustively by the courts below and found that the same is convincing. The medical evidence does supported the testimony of Pw1. No material contradictions have been brought out in the cross examination of Pw1. In the circumstances, I find no reason to interfere with the concurrent findings entered into by the courts below. The conviction is confirmed.

Counsel for the revision petitioner has pleaded for leniency pointing out that more than 17 years have elapsed since the commencement of the proceedings and that the accused may not be ordered to be imprisoned. It is also stated that the revision petitioner is the only earning member of the family . In the circumstances, the sentence is imposed under Section 326 is modified to imprisonment till the rising of the court and to pay a compensation of Rs. 20,000/- to Pw1 and in default to undergo simple imprisonment for six months. The revision petitioner is granted four months time to pay the amount of compensation. He shall appear before the Judicial First Class Magistrate, Kolencherry on 3-12-2007 to receive sentence. The Crl. revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO. 345 OF 2000
ORDER

9-8-2007